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COMMISSION ON HUMAN RIGHTS

Fifty-second session

SUMMARY RECORD OF THE 35th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 11 April 1996, at 3 p.m.

Chairman:	Mr. VERGNE SABOIA	(Brazil)
later:	Mr. MBA ALLO (Vice-Chairman)	(Gabon)

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The meeting was called to order at 3.25 p.m.

CONSIDERATION OF DRAFT RESOLUTIONS AND DECISIONS CONCERNING AGENDA ITEMS 5, 6, 13, 11 AND 16

Draft resolutions and decisions concerning agenda item 5

Draft resolution E/CN.4/1996/L.19 (Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these rights)

1. Mr. CUNHA ALVES (Observer for Portugal), introducing the draft resolution, said that the sponsors had been joined by Belarus, Cameroon, Canada, Colombia, Germany, Honduras, Mexico, Nepal, the Philippines, the United Kingdom of Great Britain and Northern Ireland and Zimbabwe.

2. As in previous years, the draft resolution, which was guided by the principle of the universality, indivisibility and interdependence of all human rights and fundamental freedoms, took into consideration the work of the Committee on Economic, Social and Cultural Rights and reaffirmed the value of the progress achieved by the international community with respect to the existing standards in that field. It underlined the importance of using the Covenant as a framework for the adoption of legislation and policies in the field of economic, social and cultural rights, the role that the reporting system could play and the relevance of ensuring the study of specific economic, social and cultural rights.

3. Two months before the holding of the second United Nations Conference on Human Settlements (Habitat II), the draft resolution recognized the interest of the final report on the right to adequate housing, submitted by Mr. Sachar, Special Rapporteur of the Sub-Commission, and of the work of the expert group meetings convened in preparation for the Conference. It should be recalled that the right to adequate housing was set out in the Universal Declaration of Human Rights, in the Covenant and in other international human rights instruments. The draft resolution took note with interest of General Comment No. 6 adopted by the Committee on the economic, social and cultural rights of older persons, as well as of the report of the Committee on the technical assistance mission to Panama, undertaken in accordance with an innovative procedure for follow-up action. The draft also took note of the discussion held by the Committee in 1995 on the drafting of an optional protocol to the Covenant and of certain recommendations made by Mr. Turk, the former Special Rapporteur of the Sub-Commission, on the need to enhance the cooperation between the international financial institutions and the human rights bodies. Lastly, the United Nations High Commissioner for Human Rights was encouraged to promote coordination of the human rights activities of the United Nations and those of development agencies and to take into full consideration economic, social and cultural rights in carrying out his mandate.

4. Portugal hoped that the draft resolution, which was the result of wide consultation among various regional groups, would be adopted without a vote, as in previous years.

5. Mr. MÖLLER (Secretary of the Commission) announced that Equatorial Guinea and Latvia should be added to the list of sponsors.

6. The activities proposed in the draft resolution either involved no additional costs or came within existing mandates, for which an amount of $60,000 had already been included under section 21 (Human rights) of the programme budget for the biennium 1996-1997. There was accordingly no need for additional resources to be provided under that section.

7. Draft resolution E/CN.4/1996/L.19 was adopted without a vote.

Draft resolution E/CN.4/1996/L.20 (Effects on the full enjoyment of human rights of the economic adjustment policies arising from foreign debt and, in particular, on the implementation of the Declaration on the Right to Development)

8. Mr. GONZALEZ MARCHANTE (Cuba), introducing the draft resolution, said that Uganda and Viet Nam had become sponsors. The draft resolution was part of the international community's efforts to resolve the problem of the foreign debt of developing countries. It emphasized the negative effects of foreign debt not only on the economies of those countries but also, because it perpetuated their dependence, on the realization of all human rights.

9. The international community must, as advocated by the World Conference on Human Rights, alleviate the foreign debt burdens of developing countries and support their Governments' action to promote the realization of the peoples' economic, social and cultural rights. Regrettably, the actors concerned, in particular the international financial institutions, were not all showing the necessary willingness to do so. Yet, as emphasized by the United Nations High Commissioner for Human Rights, the international standards relating to economic, social and cultural rights had to be applied with the same vigour as the standards relating to civil and political rights, with priority being given to development.

10. To broaden the scope of action proposed in the draft resolution to deal with the foreign debt problem, the sponsors had, after consultation with other delegations, made two changes to the proposed text. In operative paragraph 3, after the words "debt service", the words "and consideration of other possible specific forms and means of resolving the external debt problem of the developing countries, including rescheduling agreements" should be inserted. Operative paragraph 8 had been revised to read: "Requests the Working Group on the Implementation and Promotion of the Right to Development to pay special attention in its work to the social repercussions ...", the rest of the paragraph being unchanged.

11. The activities proposed in the draft resolution, particularly within the mandate of the Working Group, would contribute to the efforts of the international community to avoid the grave social repercussions of adjustment programmes on developing countries.

12. As the text had been the subject of extensive consultations, it should be possible for it to be adopted by a large majority, as in previous years.

13. Mr. MÖLLER (Secretary of the Commission) said that Cameroon, Equatorial Guinea, Honduras and Madagascar had become sponsors of the draft resolution.

14. The draft resolution, if adopted, would have no programme budget implications.

15. At the request of the representative of Cuba, a vote was taken by roll-call on draft resolution E/CN.4/1996/L.20, as orally revised.

16. Mexico, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Algeria, Angola, Bangladesh, Benin, Bhutan, Brazil, Cameroon, Chile, China, Colombia, Côte d'Ivoire, Cuba, Ecuador, Egypt, El Salvador, Ethiopia, Gabon, Guinea, India, Indonesia, Madagascar, Malaysia, Mali, Mauritania, Mexico, Nepal, Nicaragua, Pakistan, Peru, Philippines, Sri Lanka, Uganda, Venezuela, Zimbabwe.

Against: Australia, Austria, Belarus, Bulgaria, Canada, Denmark, France, Germany, Hungary, Italy, Japan, Netherlands, Russian Federation, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Republic of Korea.

17. Draft resolution E/CN.4/1996/L.20, as orally revised, was adopted by 34 votes to 16, with 1 abstention.

Draft decision 5 recommended by the Sub-Commission to the Commission on Human Rights for adoption (Effects on the full enjoyment of human rights of structural adjustment programmes)

18. The CHAIRMAN said that draft decision 5, which was contained in the report of the Sub-Commission on its forty-seventh session (E/CN.4/1996/2-E/CN.4/Sub.2/1995/51), called for the establishment of an open-ended working group of the Commission to meet for a period of one week prior to its fifty-third session to elaborate policy guidelines on structural adjustment programmes and economic, social and cultural rights.

19. Mr. MÖLLER (Secretary of the Commission), explaining the administrative and programme budget implications of the draft decision, said that the costs relating to the proposed working group meeting could be met entirely from appropriations under section 21 (Human rights) of the programme budget. The conference-servicing requirements of the working group could be met from the appropriations under section 26E (Conference services).

20. The CHAIRMAN said that the United Kingdom delegation had asked for the draft decision to be put to the vote.

21. Draft decision 5 proposed by the Sub-Commission was adopted by 34 votes to 16, with 1 abstention.

Draft decision E/CN.4/1996/L.21 (Forced evictions)

22. Mr. BAUM (Germany), introducing the draft decision on behalf of the sponsors, said that taking note of Sub-Commission resolution 1995/29 and the work of other United Nations bodies on the issue, notably that of the United Nations Centre for Human Settlements (Habitat), and mindful of the need to avoid unnecessary duplication, the Commission would request the Sub-Commission to reconsider, in the light of the conclusions of the United Nations Conference on Human Settlements (Habitat II), to be held in June, its recommendation to convene an expert seminar on the practice of forced evictions with a view to developing comprehensive human rights guidelines on development-based displacement.

23. Considering the very serious financial problems of the Organization, the sponsors believed that mandates should be allocated in the most rational way possible.

24. Mr. MÖLLER (Secretary of the Commission) announced that Japan had joined the sponsors.

25. Mr. ALFONSO MARTINEZ (Cuba) observed that asking the Sub-Commission to reconsider its recommendation in the light of the conclusions of Habitat II would have the effect of delaying any decision on the matter for approximately two years. The topics addressed at the expert seminar on the practice of forced evictions would be bound to reflect the results of the Conference, but it would be wiser to recommend to the Economic and Social Council that it authorize the holding of the expert seminar after Habitat II and taking account of its results.

26. He therefore proposed a formal amendment which consisted in replacing the words "to request the Sub-Commission to reconsider ... its recommendation to convene an expert seminar" with the words "to recommend that the Economic and Social Council, bearing in mind the conclusions of the United Nations Conference on Human Settlements (Habitat II), to be held in Istanbul in June 1996, should authorize the holding, at an appropriate date after Habitat II, of an expert seminar".

27. Mr. van WULFFTEN PALTHE (Netherlands) said that, as he recalled, there was a directive from the Secretary-General prohibiting any new inter-sessional meetings in view of the Organization's current shortage of resources. Adopting the amendment proposed by the Cuban delegation would, moreover, mean that the Commission was avoiding its responsibilities towards the Sub-Commission, which was a subsidiary body of the Commission. His delegation was therefore opposed to the Cuban amendment and requested that such amendments should in future be submitted in writing so that delegations could study them.

28. Mr. ALFONSO MARTINEZ (Cuba) said there was no question about the fact that the Sub-Commission was a subsidiary body of the Commission. The point was simply that the seminar in question was of interest primarily to developing countries and not to developed countries, which were precisely those opposing Sub-Commission resolution 1995/29 by means of the draft decision under consideration. There was no reason why the Economic and Social Council should not be requested to take a decision on the holding of such a seminar if it had financial implications.

29. Mr. MÖLLER (Secretary of the Commission) said he took it that the effect of the amendment proposed by the Cuban delegation would be the same as adopting draft decision 4 of the Sub-Commission. Thus, regarding the administrative and programme budget implications, the cost of the proposed seminar, estimated at US$ 45,000, would be met to the extent possible from the resources included under section 21 of the programme budget for the biennium 1996-1997 and the cost of conference servicing from the provisions under section 26E.

30. Mr. van WULFFTEN PALTHE (Netherlands) asked the secretariat to confirm whether there was a directive from the Secretary-General prohibiting the convening of any new inter-sessional meeting in 1996.

31. Mr. ALFONSO MARTINEZ (Cuba) said that the question was not warranted since in his proposed amendment the Commission was not deciding to organize a seminar but requesting the Economic and Social Council to authorize the holding of it. When the Economic and Social Council came to take a decision, it would have to determine whether the directive in question was applicable.

32. Mr. MÖLLER (Secretary of the Commission) said that, according to instructions received by the Conference Services Division of the United Nations Office at Geneva, United Nations bodies were not to take any decision in the biennium 1996-1997 to organize new meetings not included in the existing calendar.

33. Mr. ALFONSO MARTINEZ (Cuba) pointed out that the amendment he had proposed concerned authorizing the convening of the seminar "at an appropriate date". It would thus not necessarily be organized during the biennium 1996-1997. Quite clearly, the seminar was of absolutely no interest to developed countries.

34. Mr. IRUMBA (Uganda) took note of the information provided by the secretariat concerning the Secretary-General's directive, but observed that it was not a decision of the General Assembly or of the Economic and Social Council.

35. The CHAIRMAN invited the Commission to vote on the amendment proposed by the Cuban delegation.

36. The amendment proposed by the Cuban delegation was adopted by 20 votes to 18, with 11 abstentions.

37. The delegations of Canada, Germany, Japan, the Netherlands, the United Kingdom of Great Britain and Northern Ireland and the United States of America withdrew from the list of sponsors of the draft decision.

38. Mr. ALFONSO MARTINEZ (Cuba) said that he would sponsor the draft decision.

39. In reply to questions from the representatives of the Netherlands and Cuba, the CHAIRMAN said that, under rule 53 of the rules of procedure, even though the original sponsors of the draft decision had all withdrawn, the draft decision itself could not be, since it had been amended. He therefore invited the Commission to vote on draft decision E/CN.4/1996/L.21, as amended.

40. Draft decision E/CN.4/1996/L.21, as amended, was adopted by 22 votes to 18, with 9 abstentions.

Draft resolution E/CN.4/1996/L.32 (Human rights and the environment)

41. Mr. MBA ALLO (Gabon), introducing the draft resolution on behalf of the Group of African States, said that in the draft resolution, taking into account the report submitted by the Secretary-General in accordance with resolution 1995/14 on human rights and the environment (E/CN.4/1996/23), the Commission requested the Secretary-General to renew his request for the opinions of Governments, specialized agencies, intergovernmental and non-governmental organizations and to submit a report to the Commission at its fifty-third session, and decided to continue its consideration of the issue of human rights and the environment at its fifty-third session. His delegation hoped that the draft resolution could be adopted by consensus.

42. Mr. MÖLLER (Secretary of the Commission) announced that Venezuela had joined the sponsors of the draft resolution.

43. Draft resolution E/CN.4/1996/L.32 was adopted without a vote.

Draft resolution E/CN.4/1996/L.17/Rev.1 (Adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights)

44. Mr. CHEPSIROR (Observer for Kenya) introducing the draft resolution, said that the draft was an updated version of a similar text adopted by the Commission at its fifty-first session (resolution 1995/81). Recalling that the Economic and Social Council, by its decision 1995/288, had endorsed the Commission's decision to appoint for a three-year period a special rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights, he said that the draft resolution was largely based on the preliminary report of the Special Rapporteur (E/CN.4/1996/17) and, in particular, took note of her preliminary conclusions and recommendations. The Commission recognized the efforts made by relevant international bodies to address the problem, called for cooperation among Governments and relevant United Nations agencies, sought support for developing countries in their efforts to prevent the violations of human rights caused by illicit international trafficking in toxic wastes,

urged Governments to take measures with a view to preventing illicit international trafficking in toxic and hazardous products and wastes, and requested the Special Rapporteur to consult all relevant bodies and to include in her next report information on both the perpetrators and the victims of those practices, as well as to recommend remedial measures.

45. In view of the financial constraints facing the Centre for Human Rights, the sponsors had dropped the request made in resolution 1995/81 for the establishment of a focal point in the Centre to follow up on the findings of the Special Rapporteur, but requested the Secretary-General to continue to provide the Special Rapporteur with all necessary financial and human resources. Lastly, the Commission decided, in the draft resolution, to continue consideration of the question at its fifty-third session. In short, the provisions of the draft reaffirmed the mandate given to the Special Rapporteur.

46. The sponsors had consulted a large number of interested delegations with a view to achieving consensus on the proposed text. They therefore hoped that it could be adopted without a vote. If not, they would prefer a roll-call vote.

47. Mr. MÖLLER (Secretary of the Commission) said that Bangladesh, Cameroon, Madagascar and South Africa had become sponsors of the draft resolution.

48. Concerning the administrative and programme budget implications, the proposed activities came within existing mandates and their cost should therefore be met by an amount of US$ 92,000 under section 21 of the programme budget for the biennium 1996-1997. No additional resources would be required should the draft resolution be adopted.

49. Mr. LEGAULT (Canada) said it was regrettable that the revised version of draft resolution L.17 had been distributed so late, making it impossible for many delegations to study the text carefully.

50. Mr. TORELLA di ROMAGNANO (Italy), speaking on behalf of the European Union, which was concerned by the issue of the transport of toxic and dangerous products and wastes, recalled that organizations and conventions, notably the Basel Convention, already existed to address that important question. The European Union considered that the priority of the international community should be to put into effect paragraph 11 of the Vienna Declaration, which called upon States to adopt and vigorously implement existing conventions. Considering its very limited available resources, the Commission should devote itself to its main tasks and avoid any duplication of efforts with those of existing bodies. Lastly, it should be noted that the Special Rapporteur had nct consulted the Secretariat of the Basel Convention, which was the main source of information on the subject.

51. For all those reasons, the States members of the European Union would oppose the adoption of the draft resolution.

52. Mrs. FERRARO (United States of America) shared the views of the previous speaker and remarked that the sponsors of the draft resolution had made hardly any effort to consult other delegations with a view to reaching a consensus.

53. Mr. VASSYLENKO (Ukraine) associated himself with the views expressed by the representative of Italy and said it was regrettable that the draft resolution referred to only two regions of the world.

54. Mrs. JIMENEZ (Mexico) said that she supported the draft resolution but would like the international community not to disperse its efforts and to avoid duplication.

55. At the request of the representative of Italy, a vote was taken by roll-call on draft resolution E/CN.4/1996/L.17/Rev.1.

56. Cameroon, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Algeria, Angola, Bangladesh, Benin, Bhutan, Brazil, Cameroon, Chile, China, Colombia, Côte d'Ivoire, Cuba, Ecuador, Egypt, El Salvador, Ethiopia, Gabon, Guinea, India, Indonesia, Madagascar, Mali, Mauritania, Mexico, Nepal, Nicaragua, Pakistan, Peru, Sri Lanka, Uganda, Venezuela, Zimbabwe.

Against: Australia, Austria, Belarus, Bulgaria, Canada, Denmark, France, Germany, Hungary, Italy, Japan, Netherlands, Russian Federation, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstentions: Malaysia, Philippines, Republic of Korea.

57. Draft resolution E/CN.4/1996/L.17/Rev.1 was adopted by 32 votes to 16, with 3 abstentions.

Draft resolutions concerning agenda item 6

Draft resolution E/CN.4/1996/23/Rev.1 (The right to development)

58. Mrs. CARRIZOSA DE LOPEZ (Colombia), introducing the draft resolution on behalf of States members of the Movement of Non-Aligned Countries and other States, said the preamble recalled that States and the international community were committed to promoting development policies encompassing the economic, social, political and cultural aspects of the right to development.

59. In the operative part, all the actors involved in the development process - primarily States, United Nations bodies, specialized agencies and non-governmental organizations - were requested to cooperate for the effective implementation of the right to development. In order to elaborate a practical and concrete strategy in that area, it was being proposed to establish a working group which would report to the Commission and enable it to follow and take action on the question.

60. She hoped that the draft resolution would be adopted without a vote.

61. Mr. MÖLLER (Secretary of the Commission) said that Australia, Costa Rica, Ecuador, Greece, Luxembourg, Mexico, Nepal, Norway and the former Yugoslav Republic of Macedonia had become sponsors of the draft resolution.

62. With regard to the financial implications of the draft resolution, the proposed activities came within the mandate of the Economic and Social Council and the cost would be covered by an amount of $92,000 under section 21 of the programme budget for the biennium 1996-1997. No additional resources would therefore be necessary should the draft resolution be adopted.

63. Draft resolution E/CN.4/1996/L.23/Rev.1 was adopted without a vote.

64. Mrs. FERRARO (United States of America) said that her delegation had joined the consensus since the text just adopted represented an improvement on those considered in previous years. She hoped that the spirit of partnership that had shaped the draft resolution would also characterize the work of the new group of experts.

65. The United States nevertheless had some misgivings about continuing the endeavour since a realistic way to approach the right to development had yet to be found that avoided theoretical wrangling and focused instead on the interdependence of human rights, democracy and development. The United States was therefore not surprised, contrary to the Working Group on the Right to Development, "to note that nine years after its promulgation, and despite sustained pressure from the international community, the Declaration on the Right to Development has not yet been implemented nor its execution even begun" (E/CN.4/1996/24, para. 297).

66. The United States did not subscribe to the Working Group's view that the right to development was "the keystone in the entire human rights structure". It was convinced that the individual must be the central focus of any discussion of the right to development, which must be realized, as emphasized at the World Summit for Social Development, through strengthening democracy, development and respect for human rights and fundamental freedoms.

67. The United States believed that democracy was the key to development and invited the expert group to examine how national efforts at promoting democracy would assist in the implementation of the right to development. If Governments were not prepared to provide the internal conditions needed for all human rights to flourish, it should come as no surprise if the right to development continued to be unfulfilled.

Draft resolution concerning agenda item 13

Draft resolution E/CN.4/1996/L.15 (Status of the International Covenants on Human Rights)

68. Mr. WILLE (Observer for Norway), introducing the draft resolution, said that almost 30 years after the adoption of the International Covenants on Human Rights, many Member States had not yet ratified them. The draft resolution therefore appealed strongly to all States that had not yet become parties to the Covenants to do so, as well as to accede to the Optional Protocols to the International Covenant on Civil and Political Rights and to make the declaration provided for in its article 41. The Secretary-General was furthermore invited to intensify efforts to that end, and to assist States

parties in ratifying or acceding to those instruments, as well as in the preparation of their reports. It was important for States parties to comply strictly with those instruments and they were encouraged to review periodically any reservations made, to formulate such reservations as narrowly as possible and to ensure that no reservation was incompatible with the object of the relevant treaty or otherwise contrary to international law. The draft resolution also stressed the importance of avoiding the erosion of human rights by derogation and of observance of the procedures for derogations.

69. He hoped that the draft resolution would be adopted by consensus.

70. Mr. MÖLLER (Secretary of the Commission) informed the Commission that the Czech Republic, Equatorial Guinea, Honduras, Israel, Latvia and the Philippines had become sponsors of the draft resolution.

71. Draft resolution E/CN.4/1996/L.15 was adopted without a vote.

Draft resolutions concerning agenda item 11

Draft resolution E/CN.4/1996/L.25 (Violence against women migrant workers)

72. Mrs. BAUTISTA (Philippines), introducing the draft resolution, revised the end of the third preambular paragraph to read: "... violence against women, its external and internal root causes and its consequences".

73. Violence against women migrant workers was increasingly becoming the focus of world attention and the need was felt to recognize the rights of migrant workers, in particular women migrant workers, who were most vulnerable to abuse and violence.

74. The draft resolution took into account the Platform of Action adopted at the World Conference on Women and the recommendations of the World Summit for Social Development, and incorporated some provisions of resolutions adopted by the General Assembly at its fiftieth session and by the Commission on the Status of Women at its fortieth session. Those two bodies had called upon States to take the necessary measures both to prevent violence against women migrant workers and to assist the victims of such violence.

75. A United Nations expert group meeting was to be held at Manila in May 1996, with the participation of the Special Rapporteur on violence against women, to submit recommendations for improving coordination of the various United Nations agencies on that issue and to develop indicators to determine the situation of women migrant workers.

76. She hoped that the Commission would adopt the draft resolution without a vote.

77. Mr. MÖLLER (Secretary of the Commission) announced that Argentina, Bangladesh, Equatorial Guinea, Nicaragua, Sri Lanka and Zimbabwe were joining the sponsors of the draft resolution.

78. Draft resolution E/CN.4/1996/L.25, as orally revised, was adopted without a vote.

Draft resolution E/CN.4/1996/L.27 (International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families)

79. Mr. de ICAZA (Mexico), introducing the draft resolution, said that in view of the increasing number of violations of the rights of migrant workers and the alarming resurgence of xenophobia and racial hatred of which those workers and their families were victims, there was an urgent need for a regulatory framework to guarantee the rights of that particularly vulnerable group. If the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families did not quickly enter into force, on account of having been ratified by an insufficient number of countries, other means would have to be found to ensure that the authorities of host countries respected the dignity of migrants. Mexico reserved the right to propose the establishment of a mechanism to elaborate draft minimum standards applicable to migrant workers in any country and whatever their legal status, as well as a thematic mechanism to consider complaints of violations of the fundamental rights of migrants.

80. The sponsors of the draft resolution accordingly called upon all States to ratify the Convention at the earliest possible date and urged countries of destination to adopt appropriate measures to prevent the excessive use of force against migrant workers and to ensure that the police forces and competent authorities complied with the basic standards relating to the decent treatment of migrant workers and members of their families.

81. In operative paragraph 4, the words ", from within existing resources," should be inserted after the words "Requests the Secretary-General to provide". The sponsors hoped that the draft resolution would be adopted without a vote.

82. Mr. MÖLLER (Secretary of the Commission) informed the Commission that Ecuador, Equatorial Guinea, Honduras, Madagascar, Morocco, Peru and Sri Lanka had become sponsors of the draft resolution.

83. Mrs. FERRARO (United States of America) proposed that the beginning of operative paragraph 8 should be amended to read: "Urges countries of destination to review and adopt, as appropriate, measures ...".

84. Draft resolution E/CN.4/1996/L.27, as orally revised and amended, was adopted without a vote.

Draft resolutions concerning agenda item 16

Draft resolution E/CN.4/1996/L.26 (Tolerance and pluralism as indivisible elements in the promotion and protection of human rights)

85. Ms. KUNADI (India), introducing the draft resolution, said that the sponsors had been joined by Austria, Canada, Denmark, Germany, Greece, Honduras, Ireland, Madagascar, the Netherlands, Portugal, Sweden, Switzerland, the United Kingdom of Great Britain and Northern Ireland and the United States of America. The time had come to bring greater focus on promoting the values of tolerance and pluralism both nationally and internationally, as well as through the United Nations human rights system.

86. The draft resolution called upon States to promote and enhance tolerance and to ensure that the values of pluralism, respect for diversity and non-discrimination were promoted effectively, as well as to promote a culture conducive to promoting and protecting human rights, fundamental freedoms and tolerance, inter alia, through education leading to genuine pluralism. The relevant mechanisms of the Commission were called upon to attach the highest priority to effective promotion of those values. The High Commissioner for Human Rights and the Centre for Human Rights were invited to advise or assist countries to put in place safeguards to guarantee the full enjoyment of all human rights by all segments of their population. Lastly, the Centre for Human Rights was invited to include, in its work programmes, the promotion of tolerance.

87. The sponsors, representing a wide cross-section of countries, both developed and developing, sought to reaffirm clearly that there was no North-South divide on the issue of human rights. They hoped that the draft resolution could be adopted by consensus.

88. Mr. MÖLLER (Secretary of the Commission) announced that Bulgaria, Costa Rica, El Salvador, Equatorial Guinea, Italy and Romania had become sponsors of the draft resolution.

89. Draft resolution E/CN.4/1996/L.26 was adopted without a vote.

Draft resolution E/CN.4/1996/L.34 (Rights of persons belonging to national or ethnic, religious and linguistic minorities)

90. Mr. STROHAL (Austria), introducing the draft resolution, said that the draft was based on consensus resolutions adopted by the Commission and the General Assembly and sought to promote the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. The sponsors had taken into account the report of the Secretary-General on the question (E/CN.4/1996/88) and the report of the inter-sessional working group (E/CN.4/Sub.2/1996/2).

91. The draft resolution reaffirmed the need to promote and protect effectively the rights of persons belonging to minorities and acknowledged that the United Nations had an increasingly important role to play regarding the protection of minorities by creating favourable conditions for the promotion and protection of their rights. It noted the positive initiatives and measures undertaken by many countries to protect minorities and promote mutual understanding and it urged States and the international community to promote and protect the rights of persons belonging to minorities, as set out in the Declaration. It called upon the United Nations High Commissioner for Human Rights to promote, within his mandate, the implementation of the Declaration and to continue to engage in a dialogue with Governments concerned.

92. Two changes had been made to the text: the ninth preambular paragraph had been deleted, as well as the words "to continue" in operative paragraph 13. The sponsors hoped that the draft could be adopted by consensus.

93. Mr. MÖLLER (Secretary of the Commission) announced that Hungary, Lithuania and Malta had become sponsors of the draft resolution.

94. Draft resolution E/CN.4/1996/L.34, as orally revised, was adopted without a vote.

95. Mr. HASHMI (Pakistan) said that his delegation had not opposed the adoption by consensus of draft resolution E/CN.4/1996/L.26, but nevertheless deplored the fact that it made no reference to the promotion of tolerance through the adoption of measures promoting peace and means of combating racism, racial discrimination and xenophobia, as well as measures to prevent social stratification and to protect religious sanctuaries and places of worship. Regrettably, the sponsors of the resolution had systematically excluded certain countries from the preparatory discussions, but his delegation hoped that its suggestions could be taken into account when the text was considered at the General Assembly or at the Commission's next session.

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:

(a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

(b) NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

(c) COORDINATING ROLE OF THE CENTRE FOR HUMAN RIGHTS WITHIN THE UNITED NATIONS BODIES AND MACHINERY DEALING WITH THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

(d) HUMAN RIGHTS, MASS EXODUSES AND DISPLACED PERSONS

(agenda item 9) (continued) (E/CN.4/1996/8, 42, 43, 44, 45 and Add.1, 46, 47, 48 and Add.1, 49, 50 and Add.1, 51, 52 and Add.1 and 2, 53 and Add.1 and Corr.1 and Add.2, 105, 109, 116, 117, 137 and 148; E/CN.4/1996/NGO/4, 10, 20, 28, 31, 34, 37, 43, 47, 51, 56, 64 and 75; A/50/332 and 685; A/CONF.177/20; E/CN.4/1995/48 and E/CN.6/1996/11)

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS (agenda item 17) (continued) (E/CN.4/1996/11, 14, 15, 89, 90, 92, 93 and Add.1, 94, 111, 118 and Add.1, 136 and 138; E/CN.4/1996/NGO/38 and 74; A/50/681 and Add.1, 482 and 878; A/49/929)

96. Mr. TEITELBAUM (American Association of Jurists) said it was clear from the reports submitted by the independent expert appointed to study the situation of human rights in Guatemala, by the Director of the United Nations Human Rights Verification Mission in Guatemala (MINUGUA) and by the Special Rapporteur on extrajudicial, summary or arbitrary executions that the situation of human rights in Guatemala remained very serious and showed no sign of improving.

97. The American Association of Jurists had sent a mission to Guatemala in November 1995 to study the administration of justice and the possibilities available to the lawyers of political prisoners. While the national authorities recognized material and human shortcomings that prevented full exercise of the right of Guatemalan citizens to a defence, they denied the existence of political prisoners. They had, however, promised to offer the necessary guarantees to the lawyers of persons accused of political offences so that they could carry out their tasks with no restriction. It should be emphasized that those lawyers had until now always been subject to threats and intimidation to the point where, with one exception, they had all eventually given up defending their clients.

98. For several years, it had been customary for the Commission to express confidence in the newly elected Guatemalan authorities. That confidence had never been justified and the Commission must not go on making the same mistake. The American Association of Jurists called upon the Commission to renew the independent expert's mandate and attach fundamental importance to the continued activities of MINUGUA.

99. The theme of violence against women in the family had been carefully studied by the Special Rapporteur on violence against women (E/CN.4/1996/53 and Add.1). However, one aspect that had not been sufficiently developed was violence linked with exploitation, which should be understood not only as sexual exploitation but also as domestic exploitation, whereby women were forced to perform the most onerous tasks in the family, which damaged their health and prevented them from fulfilling themselves as human beings. The Special Rapporteur might also study in greater depth the relationship between poverty and violence in the home.

100. Concerning the report of the Secretary-General on human rights and unilateral coercive measures (E/CN.4/1996/45), which contained a communication from the American Association of Jurists, he criticized the Helms-Burton law in the United States, which was not only an additional problem for the Cuban people but a matter of concern for the international community as a whole. It was alarming to see the Government of the world's foremost power being dominated by an aggressive and prehistoric right wing that not only envisioned Cuba's virtual annexation but was also seeking to impose its attitudes on all the sovereign States of the planet.

101. The American Association of Jurists suggested that the Commission should adopt a resolution declaring the Helms-Burton law contrary to the right of peoples to self-determination and dangerous for international peace and security.

102. Mr. Mba Allo (Gabon), Vice-Chairman, took the Chair.

103. Mr. GERARDI (Pax Romana) said that the situation of human rights in Guatemala in 1995 remained most discouraging. That was due to the weakness of the State, which was unable to discharge its basic responsibility of protecting the lives, liberty and integrity of citizens.

104. Considerable political and diplomatic pressure had to be exerted on the State and its institutions to obtain justice and those daring to do so exposed themselves to threats, forced exile and execution. The killings of witnesses, complainants, judges and procurators were also to be deplored. Freedom of expression was seriously threatened.

105. Although some 30,000 comisionados militares had been demobilized, they and the civil self-defence patrols formed a core of authoritarianism and impunity in rural areas. The "social cleansing" operations had continued in 1995.

106. The impunity enjoyed by the actors of the armed confrontation had encouraged a systematic pattern of human rights violations. The conflict had lessened, but had not disappeared, and mafia organizations and crime syndicates had emerged as a system of parallel power, paralysing the administration of justice. The Xamán farm massacre was a sad illustration of the deteriorating conditions of security. The trial of those responsible had helped to decipher an unwritten code of "institutional coverage" of the military personnel guilty of violations of human rights and humanitarian law. The new Government had decided to undertake a series of reforms of public institutions, in particular the army and the police. However, the impunity enjoyed by State officials during the armed conflict had caused structural distortions within the institutions and the reforms must therefore be viewed as a long-term process.

107. Guatemalan citizens were pleased that the Government had begun to reform the key machinery of the army and the police, but above all they were glad to see signs of a possible end to the armed conflict. Since impunity was the main obstacle to a settlement of the conflict, the peace agreements must not let past actions be ignored or allow certain individuals to flout justice.

108. The situation of human rights in Guatemala required annual consideration by the Commission and Pax Romana proposed that the independent expert's mandate should be extended.

The meeting rose at 6 p.m.